



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/862,898	05/21/2001	Kenneth Largman	A-70543/RMA/LM/KRG	9831

7590 02/11/2004

FLEHR HOHBACH TEST ALBRITTON & HERBERT LLP
Suite 3400
Four Embarcadero Center
San Francisco, CA 94111-4187

EXAMINER

MANOSKEY, JOSEPH D

ART UNIT	PAPER NUMBER
----------	--------------

2113

DATE MAILED: 02/11/2004

15

Please find below and/or attached an Office communication concerning this application or proceeding.

82

Office Action Summary

Application No.

09/862,898

Applicant(s)

LARGMAN ET AL.

Examiner

Joseph Manoskey

Art Unit

2113

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 21 May 2001.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-20 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 08 January 2002 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☒ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 10, 11, and 13.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION

Oath/Declaration

1. The oath or declaration is defective. A new oath or declaration in compliance with 37 CFR 1.67(a) identifying this application by application number and filing date is required. See MPEP §§ 602.01 and 602.02.

The oath or declaration is defective because:
Non-initialed and/or non-dated alterations have been made to the oath or declaration. See 37 CFR 1.52(c).

Specification

2. The title of the invention is not descriptive. A new title is required that is clearly indicative of the invention to which the claims are directed.

3. The disclosure is objected to because of the following informalities:

On page 1, the specification lists only two of the three inventors.

On page 15, in line 5, the reference number "66" should be replaced with "67".

On page 19, the reference numbers "6A" and "7A" on lines 20 and 21 respectively, should both be replaced with "8A".

On page 21, in line 2, the reference number "972" should be replaced with "971".

On page 21, in line 22, the end of the line reads "... or logic state f the controller 97 ...", this should be replaced with "... or logic state of the controller 97 ..."

Appropriate correction is required.

Claim Rejections - 35 USC § 102

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

5. Claims 1-13 and 15-18 are rejected under 35 U.S.C. 102(e) as being anticipated by Goshey et al., U.S. Patent 6,205,527, hereinafter referred to as "Goshey".

6. Referring to claim 1, Goshey discloses a method of a computer repairing itself (See Col. 2, line 43 and Col. 4, lines 62-63). The method includes booting from a first device, determining a fault, and then boot from a second device (See Col. 2, lines 56-63). Finally Goshey discloses repairing the software on the first boot device (See Col. 4, lines 21-25).

7. Referring to claims 2 and 3, Goshey discloses the method copy software from a device other than the first boot device to the first boot device, the other device being the second boot device (See Col. 5, lines 1-4).

8. Referring to claim 4, Goshey teaches the second boot device containing backup software for copying back to the first boot device (See Col. 2, lines 50-56 and Col. 5, lines 1-4).

9. Referring to claim 5, Goshey discloses a method of a computer repairing itself (See Col. 2, line 43 and Col. 4, lines 62-63). The method includes booting from a first device, determining a fault, and then boot from a second device (See Col. 2, lines 56-63). Goshey teaches the second boot device containing backup software for copying back to the first boot device (See Col. 2, lines 50-56 and Col. 5, lines 1-4).

10. Referring to claim 6, Goshey teaches a method of a computer repairing itself (See Col. 2, line 43 and Col. 4, lines 62-63). Goshey discloses the booting from a first disk drive within a main computer (See Fig. 1A and Col. 5, lines 4-5). Goshey then teaches in response to determining a fault, booting from a second drive that is within the main computer (See Col. 2, lines 56-63 and Col. 5, lines 8-11). Goshey discloses repairing the software on the first boot device (See Col. 4, lines 21-25). Finally Goshey teaches either maintaining operation using the second boot device or going back to operating off the first boot device (See Col. 4, lines 20-25 and Col. 5, lines 4-5).

11. Referring to claim 7, Goshey discloses the method copy software from a device other than the first boot device to the first boot device, the other device being the second boot device (See Col. 5, lines 1-4). Goshey teaches the second boot device containing backup software for copying back to the first boot device (See Col. 2, lines 50-56 and Col. 5, lines 1-4). The backup data includes operation system files and boot files (See Col. 2, lines 51-53).

12. Referring to claim 8, Goshey discloses a boot management code that will identify drives connected to the computer system and enable booting of the secondary storage device (See Col. 4, lines 40-44).

13. Referring to claims 9 and 15, Goshey teaches the computer detecting the fault of the computer and thus the need for repair (See Col. 4, lines 3-6) and Goshey teaches the system allowing the user to re-boot to the other storage device (See Col. 3, lines 9-14).

14. Referring to claims 10 and 16, Goshey discloses repairing software on the first boot device (See Col. 2, line 43 and Col. 4, lines 62-63). Goshey teaches the second boot device containing backup software for copying back to the first boot device (See Col. 2, lines 50-56 and Col. 5, lines 1-4). Also taught is virus checking (See Col. 12, lines 36-37) and formatting the drive (See Col. 4, lines 65-67).

15. Referring to claims 11 and 17, Goshey teaches formatting the hard drive and restoring the files from the backup of the second drive (See Col. 4 line 65 to Col. 5 line 4).

16. Referring claims 12 and 18, Goshey discloses teaches storing backing up files on the storage media (See Col. 2, lines 51-56) before booting from the second device. It is also taught that the storage device is enabled for protection of the device (See Col. 4, lines 29-31).

17. Referring to claim 13, Goshey discloses the method copy software from a device other than the first boot device to the first boot device, the other device being the second boot device (See Col. 5, lines 1-4). Goshey teaches the second boot device containing backup software for copying back to the first boot device (See Col. 2, lines 50-56 and Col. 5, lines 1-4). The backup data includes operation system files and boot files (See Col. 2, lines 51-53). Goshey teaches the second boot device containing backup software for copying back to the first boot device (See Col. 2, lines 50-56 and Col. 5, lines 1-4). Goshey discloses a boot management code that will identify drives connected to the computer system and enable booting of the secondary storage device (See Col. 4, lines 40-44). Goshey then teaches in response to determining a fault,

booting from a second drive that is within the main computer (See Col. 2, lines 56-63 and Col. 5, lines 8-11). Goshey teaches the computer detecting the fault of the computer and thus the need for repair (See Col. 4, lines 3-6) and Goshey teaches the system allowing the user to re-boot to the other storage device (See Col. 3, lines 9-14). Goshey discloses repairing software on the first boot device (See Col. 2, line 43 and Col. 4, lines 62-63). Goshey teaches the second boot device containing backup software for copying back to the first boot device (See Col. 2, lines 50-56 and Col. 5, lines 1-4). Also taught is virus checking (See Col. 12, lines 36-37) and formatting the drive (See Col. 4, lines 65-67).

Claim Rejections - 35 USC § 103

18. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

19. Claims 14, 19 and 20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Goshey in view of Microsoft Corporation, *Microsoft Windows 95 Resource Kit*, hereinafter will be referred to as "Microsoft".

20. Referring to claims 14, 19 and 20, Goshey teaches all the limitations (See rejections of claims 6, 7, and 13 respectively) except Goshey does not disclose the method offering the user a choice of thoroughness of repair in regards to the level of formatting the drive. Goshey does however disclose reformatting a hard drive but is silent on the thoroughness of the formatting or if a plurality of choices is offered (See

Col. 4 line 65 to Col. 5 line 4). Microsoft discloses a method of formatting a hard disk that offers three format type choices to a user (See page 651). These choices include "Quick", "Full", and "Copy system files only", they are interpreted as High-level re-format, Low-level re-format, and copy template software without first re-formatting respectively. It would be obvious to one of ordinary skill in the art at the time of the invention to combine the repair method that includes formatting the drive of Goshey with the three different levels of formatting a hard drive of Microsoft. This would have been obvious to one of ordinary skill in the art at the time of the invention to do because it provides the user with selecting a choice that is more appropriate for how fast they wish to have the procedure completed.

Conclusion

21. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

U.S. Patent Application Publication 2002/0053044 to Gold et al.


U.S. Patent 6,317,845 to Meyer et al.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Joseph Manoskey whose telephone number is (703) 308-5466. The examiner can normally be reached on Mon.-Fri. (8am to 4:30pm).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Robert Beausoliel can be reached on (703) 305-9713. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

JDM
February 5, 2004


ROBERT BEAUSOLIEL
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2100